

BEFORE THE COLORADO WATER CONSERVATION BOARD
STATE OF COLORADO

PREHEARING STATEMENT OF PUBLIC SERVICE COMPANY OF COLORADO

IN THE MATTER OF THE PROPOSED INSTREAM FLOW ACQUISITION, WATER
DIVISION NO. 5: SHOSHONE WATER RIGHTS

Pursuant to Rule 6m(5)(e) of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program, 2 Colo. Code Regs. 408-2 (the “ISF Rules”), and the *Order Re: Procedures and Deadlines for Prehearing Submissions*, entered in this matter on July 18, 2025 (the “Prehearing Order”), Public Service Company of Colorado, a Colorado Corporation (“PSCo”) hereby submits this prehearing statement in support of the proposed dedication of water rights to the Colorado Water Conservation Board (the “CWCB”) to use for instream flow purposes.

I. STATEMENT OF PSCO’S POSITION

PSCo is the owner and operator of the Shoshone Hydropower Plant (the “Plant”), which is a “run of the river” hydroelectric power plant situated on the Colorado River, approximately eight miles east of Glenwood Springs, Colorado. The Plant was constructed in 1909 and has been in operation for over 100 years. The Plant diverts water at the Shoshone Diversion Dam, which is about 2.5 miles upstream, near the top of Glenwood Canyon. The water is diverted into a pipeline that runs along the Glenwood Canyon wall and delivers water to the penstocks and turbines before it is returned to the Colorado River. The Plant diverts water under two separate water rights. The Senior Shoshone Water Right was originally decreed in Civil Action No. 466 in the amount of 1,250 cubic feet per second (“c.f.s.”), with an appropriation date of January 7, 1902, for power, mining, milling, manufacturing, lighting, heating, and traction purposes *See CRD-1*. The Junior

Shoshone Water Right, in turn, was originally decreed in Civil Action No. 1123 in the amount of 158 c.f.s., with an appropriation date of May 15, 1929, for manufacturing and generation of electrical energy.¹ *See* **CRD-2**. The Shoshone Water Rights are non-consumptive, meaning that all water diverted from the Colorado River at the Shoshone Diversion Dam is returned to the river without any net depletion to the stream.

After many years of discussions and negotiations, PSCo entered into a Purchase and Sale Agreement with the Colorado River Water Conservation District (the “River District”) on January 1, 2024 (the “PSA”), which provided for the River District to acquire the Shoshone Water Rights, and for PSCo to lease the water rights back for hydropower uses at the Plant. *See* **CRD-4**. Prior to closing on the transaction, several interim steps are required to occur, including the execution of an instream flow agreement with the CWCB (the “ISF Agreement”), and the entry of a decree by the Division 5 Water Court approving a change of water rights to include instream flow uses. The proposed ISF Agreement will authorize the CWCB to use the Shoshone Water Rights to preserve and improve the natural environment within the “Shoshone Reach” as that term is defined in the ISF Agreement, at times when the Shoshone Water Rights are not being used for hydropower purposes by PSCo. *See* **CRD-3**.

PSCo supports the proposed dedication of the Shoshone Water Rights so the CWCB will have the exclusive right to use them for instream flow purposes when they are not being used for hydropower purposes by PSCo. The CWCB’s acquisition of an interest in the Shoshone Water

¹ For purposes of this prehearing statement, the 1905 Shoshone water right is referred to as the “Senior Shoshone Water Right”; the 1940 Shoshone water right is referred to as the “Junior Shoshone Water Right”; and the two water rights are collectively referred to as the “Shoshone Water Rights”.

rights for instream flow purposes is a singularly unique opportunity to preserve and improve the natural environment of the Colorado River for generations.

II. IDENTIFICATION OF WITNESSES

PSCo intends to present testimony from Mr. Harold “Art” Steimer, Operations Manager for PSCo’s hydroelectric operations, at the hearing regarding the issues and subjects summarized below. Mr. Steimer will be available at the hearing to answer questions from the Board. Mr. Steimer’s resume is attached hereto as **PSCo - 1**.

1. Mr. Steimer will testify regarding the following matters:

a. He will provide a broad overview of the Shoshone Water Rights, and the history of the Plant.

b. He will provide an explanation of the operations at the Plant, and how it beneficially uses water pursuant to the Shoshone Water Rights. Mr. Steimer will explain the operation of the diversion dam, how water is delivered through the tunnel, sent through the penstocks to the turbines to generate electricity, and then returned to the Colorado River.

c. He will provide an overview of Plant maintenance and repair procedures. This includes historical operations in which the Plant would be temporarily, partially, or fully shut down so that maintenance needs could be determined and addressed. He will also address more recent maintenance and repair outages due to specific circumstances, including:

- i. A significant Penstock blowout in 2007.
- ii. Early 2010s repairs of leakage at diversion dam.
- iii. The Grizzly Creek Fire in 2020.
- iv. Rockslide in 2023.

d. Mr. Steimer will testify regarding PSCo's ongoing plans to continue to operate the Plant and the Shoshone Water Rights.

2. Counsel for PSCo, Carolyn Burr and/or Jim Noble, if needed to be declared as witnesses, will present an overview of testimony on behalf of PSCo and may address questions from the Board and/or rebuttal topics.

III. OPEN LEGAL QUESTIONS

Colorado law, as described in C.R.S. § 37-92-102(3), and the factors set forth in ISF Rule 6e describe the legal standards for determination whether it is appropriate for the CWCB to acquire an interest in a water right for instream flow purposes. It is PSCo's position that the statutory and rule requirements have been satisfied in this case. PSCo adopts the River District's explanation of the reasons that the standards have been satisfied, contained in Parts II and III of the River District's Prehearing Statement. To the extent that any other party raises any legal issues in their prehearing statements, PSCo reserves the right to provide rebuttal to such positions as provided in the Prehearing Order.

IV. REQUESTED RELIEF

PSCo supports the relief requested by the CWCB Staff in Section IV of its pre-hearing statement. PSCo requests that the Board approve and accept the dedication of the Shoshone Water Rights for instream flow use when not being used for hydropower purposes as provided in the proposed Instream Flow Agreement and authorize the CWCB Staff to file an application in water court, together with PSCo and the River District, to change the use of the Shoshone Water Rights to include instream flow purposes.

V. AMOUNT OF TIME REQUESTED AT THE HEARING

PSCo requests twenty minutes of presentation time at the hearing.


VI. EXHIBITS LIST

PSCo-1	Resume of Art Steimer
PSCo-2	Schematic Map: Shoshone Hydropower Plant Overview
PSCo-3	Photos of Shoshone Diversion Dam Area
PSCo-4	Schematic Shoshone Hydropower Plant Forebay & Penstock Detail & Profile
PSCo-5	Photos of Shoshone Power Plant Area
PSCo-6	Photos of 2007 Penstock Rupture and 2023 Rock Fall Damage
PSCo-7	Map of Grizzly Creek Fire 2020

VII. CONCLUSION

PSCo supports approval by the CWCB Board of the acquisition of an interest in the Shoshone Water Rights for instream flow purposes, pursuant to the proposed Instream Flow Agreement that has been submitted to the Board by the River District and CWCB staff.

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By: 

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a Colorado Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on this day, Monday, August 4, 2025, a true and correct copy of the foregoing **Prehearing Statement** was filed and served on all parties listed below, via email.

/s/ Jeanie Dreger

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